

Appln No. 10/660,815
Amtd date March 28, 2007
Reply to Office action of February 8, 2007

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REMARKS/ARGUMENTS

Claims 1-16, 18-25, 27, and 30-45 are pending in the above-referenced application.

This is a response to the office Action dated February 28, 2007 wherein the Examiner further restricted the claims into four distinct species, namely:

Species 1 - Claims 1-33;

Species 2 - Claims 34 and 37-39;

Species 3 - Claims 35 and 40-43; and

Species 4 - Claims 36, 44, and 45.

In response to the election of species requirement, Applicant hereby provisionally elect species 1, which corresponds to claims 1-33 with TRAVERSE.

The Examiner's attention is directed to MPEP Sec. 806.04(e), which states: "Claims themselves are NEVER species."

In the instant restriction requirement, the Examiner restricted the claims not based on the disclosed species, but rather on the language of the claims, which contradicts MPEP Sec. 806.04(e).

If the claims determine the number of distinct species recited, then in essence, all 20 claims in an application, which any Applicant may file with a single filing fee, can always be restricted 20 different ways, which is clearly impermissible.

Applicant submits that all pending claims 1-16, 18-25, 27, and 30-45 are directed to the species corresponding to Group H, FIGs. 1 and 17. In other words, when reading the claims in view of the figures, all the claims read on FIGs. 1 and 17.

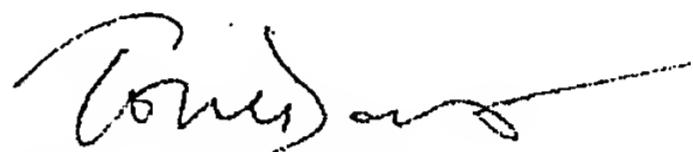
MPEP Section 806.03 states:

"Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition."

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In view of the foregoing remarks, Applicant submits that the claims are properly directed to a single species and prosecutions on the merits of the pending claims are respectfully requested.

Respectfully submitted,
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